

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LLOYD RAY BUXTON,

Defendant.

No. CR-96-2055-LRS

**ORDER RE MOTION  
TO AUTHORIZE SECOND  
OR SUCCESSIVE 28 U.S.C.  
§2255 MOTION**

Defendant has filed a motion seeking authorization from this court to file a second or successive 28 U.S.C. §2255 motion. (Ct. Rec. 252). The Defendant must seek that authorization from the Ninth Circuit Court of Appeals. The court of appeals must certify that the motion contains: (1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable. §2255(h).

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**ORDER RE MOTION TO AUTHORIZE  
SECOND OR SUCCESSIVE MOTION-**



1 Defendant's motion (Ct. Rec. 252) is **DISMISSED without prejudice** to  
2 him seeking authorization from the Ninth Circuit Court of Appeals to file his  
3 motion.

4 **IT IS SO ORDERED.** The District Executive shall forward copies of this  
5 order to Defendant.

6 **DATED** this 23rd of October, 2008.

7 *s/Lonny R. Suko*

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LONNY R. SUKO  
United States District Judge